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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/297,737	05/04/2001	Juliette Quartararo	PET-1761	1202

23599 7590 08/02/2004

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EXAMINER

GRIFFIN, WALTER DEAN

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/297,737

Applicant(s)

QUARTARARO ET AL.

Examiner

Walter D. Griffin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,8-10,12-14,17-19,21-25,27,28 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5,8-10,12-14,17-19,21-25,27,28 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The claim objections and rejections as described in the office action mailed on March 4, 2004 have been withdrawn in view of the amendment filed on June 3, 2004. The Simpson reference does not disclose or suggest the presence of rhenium in the catalyst. Also, the catalysts of Bjornson require zinc titanate in the catalyst whereas the claims exclude such a component.

New rejections follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

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evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 5, 8-10, 12-14, 17-19, 21-25, 27, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 573973 A1 to Yamase et al. in view of Cheng et al. (US 4,724,226) and/or Shukis et al. (US 6,200,927).

The Yamase reference discloses a catalyst and method of using the catalyst in a hydrotreating process. The catalyst comprises an alumina support (i.e., matrix), at least one metal selected from molybdenum and tungsten (10 to 20 wt%), at least one metal selected from cobalt and nickel (2 to 8 wt%), and at least one metal such as rhenium (0.1 to 5 wt%). The hydrotreating process comprises contacting a hydrocarbon feed such as a gas oil with the catalyst that has been pre-sulfurized in order to produce a hydrotreated hydrocarbon stream that has been desulfurized. See page 3, line 37 through page 4, line 16 and page 4, line 58.

The Yamase reference does not disclose that at least one of phosphorus, boron, or silicon is deposited on the support.

The Cheng reference discloses a hydrotreating catalyst that comprises an alumina support to which boron (0.1 to 5 wt% of B_2O_3) has been added by impregnation. See column 3, lines 8-46.

The Shukis reference discloses hydrotreating catalysts and discloses that promoters such as silica and phosphorus may be added to the catalysts by impregnation. See column 3, lines 40-49.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the catalyst of Yamase by impregnating the catalyst with

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boron as suggested by Cheng and/or impregnating the catalyst with silica and phosphorus as suggested by Shukis because these components, when added by impregnation, promote the desired hydrotreating reactions thereby improving the activity of the catalysts. Regarding the amount of promoter, one would adjust such amounts in order to provide a catalyst with effective hydrotreating activity.

Regarding claim 9, which appears to exclude the presence of additional components such as molybdenum or tungsten, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have eliminated molybdenum or tungsten from the catalyst of Yamase if the function of the molybdenum or tungsten in the catalyst is not desired.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art not relied upon discloses hydrotreating catalysts and processes.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

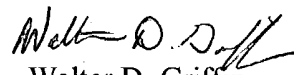
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter D. Griffin whose telephone number is (571) 272-1447. The examiner can normally be reached on Monday-Friday 6:30 to 4:00 with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Walter D. Griffin
Primary Examiner
Art Unit 1764

WG
July 19, 2004